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E.O. 12958: DECL: 08/01/2016
TAGS: [PTER](#) [PREL](#) [PGOV](#) [KU](#) [TERRORISM](#)
SUBJECT: CONSTITUTIONAL COURT SENDS PENINSULA LIONS CASE
BACK TO APPEALS COURT; DECISION AFFECTS JIHADI IN IRAQ CASE

REF: A. KUWAIT 2694
[1](#)B. KUWAIT 1594

Classified By: CDA Matt Tueller for reasons 1.4 (b) and (d)

[1](#)1. (C/NF) On July 26, Kuwait's Constitutional Court ruled that Article 56 of the Penal Code, dealing with collaboration to commit a crime, was in fact constitutional and immediately returned the Peninsula Lions case back to the Court of Appeals. The Constitutional Court's rapid decision to uphold Article 56 means that the Appeals Court will resume hearing the Peninsula Lions' case, on hold since May 3, within weeks.

In addition, the upholding of Article 56 allows for the continuation of the Jihadi in Iraq case (ref A) for eight of the 22 defendants charged with recruitment of Kuwaiti youths to fight in Iraq and collaboration to attack U.S.-led forces in Iraq. The Appeals Court suspended hearings against the eight on June 26, pending the Constitutional Court's ruling. The case against the eight will likely resume within the next month. (Note: Although both terror-related cases are being heard by the Appeals Court, they are being heard in front of two different panels of judges. End note.)

[1](#)2. (C/NF) Comment: The ruling comes as a blow to both the Peninsula Lions' defense attorneys as well as the referring judge, Appeals Court Chief Judge Al-Obeid. Al-Obeid had stated that the reason behind referral to the Constitutional Court was that he felt it "unfair" that defendants who planned a crime were being charged as if they carried out the crime, albeit with lesser sentences imposed if found guilty. In addition, the ruling strengthens the likelihood that the prosecution will be able to reaffirm or increase the original jail sentences for 29 of the 37 Peninsula Lion defendants found guilty. The prosecutors may also be able to push for jail sentences for five of the remaining seven defendants initially acquitted. (Note: Defendant number 31 has died since her original acquittal, defendant number 35 had his acquittal already reaffirmed by the court, and defendant number 16 waived his right to appeal and the prosecution has accepted his original sentence. See ref B for more details. End note.) Although the hearings will resume in September, a final decision is likely to take several months.

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